

ASEM Seminar  
"Preserving and promoting the diversity of cultural expressions:  
Sharing Asian and European Experiences"  
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As an introductory remark, the process of creating "rules" either at National or at International level is legitimate when this meets social needs: a need expressed by a Society for a precise rule related to general interest.

Cultural diversity as codified by the UNESCO Convention on the protection and promotion of the diversity of cultural expressions reflects such a social need at global level. The acceptance of this principle introduced in geoculture and geopolitics avoid any discussion on the legitimacy of the Convention. States who have not ratified it by the time being should commit and join those who ratified it, in a remarkable short period.

How to characterize the UNESCO Convention?

This Convention is an instrument of a different nature from those traditionally addressing culture in the framework of (mostly) bilateral state relationships. To give an example: cultural diversity is something different from cultural cooperation, since cultural cooperation is operated on a State by State approach with the risk that this approach isolates culture from other key outputs as social change / social cohesion / Human rights / economical process. This approach needs to be defined as static. This is not a negative appreciation; it is only a way to recognize the lack of dynamic when committing cultural cooperation.

Cultural exchanges have also a limited impact. On the opposite, cultural diversity as it is defined and embraced in the Convention, is a much more ambitious principle since it articulates culture with:

- **Social change and social cohesion:** the proclaimed link between development and culture needs to conduct absolutely to a transformation of social relations by improvement of the human quality life and development of human self consciousness. Developing countries do insist on these values.
- **Human rights:** this Convention, in its article 2 (Principles) stipulates that "Cultural diversity can be protected and promoted only if Human Rights....are guaranteed. No one may invoke the provisions of this Convention in order to infringe Human Rights". Stakeholders who, this morning, were stating that racism and communitarism could be legitimated under this Convention are wrong.
- **Economical process:** this Convention is strictly linked to economy. For the first time, cultural industries are recognized and defined (for instance, neither the European law nor the French law defines the cultural industries). Doing so, the Convention recognizes the articulation between creations of values (it is the role of cultural industries), economical dynamic and cultural diversity.
- **Civil society:** the role of civil society is formally recognized. *"Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of this Convention"* (article 11 – participation of civil society). So civil society cannot act simply as a watchdog, but needs to be fully committed in the

process to give future to the Convention<sup>1</sup>. This is also a huge effort to be done. Of course, if civil society acts positively, the power of this Convention will be enforced.

- **Trade:** this Convention is not encouraging trade in culture, but not discouraging it. Simply, to trade cultural goods and services is coherent with the idea to contribute to increase prosperity in developing countries by mobilizing a value, culture, who was often ignored or neglected by lack of means (regulatory, financially "knowledgely") in the development agenda. It is of course risky to pronounce the word "trade" when speaking in a cultural forum. Confusion between trade as a necessary tool of human action and development and the rules on trade as defined by WTO need to be carefully avoided, since one of the "raison d'être" of this Convention is to fix ways and means for the "cultural services and goods" adapted to the specific nature of these cultural services and goods. Cultural goods and services are also described as "oeuvre de l'esprit" "chef d'oeuvre" or "prototype". It is an eloquent wording to show how these cultural values are different from other services (like a bank account, a contract insurance, ...).

The aim of this draft is not to consider the articulation of UNESCO Cultural diversity Convention and WTO GATT/GATS agreements under Article 20 of UNESCO Convention. An attempt to do so was addressed during UNESCO intergovernmental session on December 2008, while discussing Article 16 preferential treatment (see experts opinion on UNESCO website: <http://www.unesco.org/culture/fr/diversity/convention>)<sup>2</sup>.

To conclude these few remarks, I think that the Convention, as drafted, is full of powerful potentialities and one of its virtue – but not the sole – is not to mistake by promoting cultural as if culture was an autonomous value in a global world. By attempting to bring culture in a dynamic process in a global environment, this Convention is opening an ambitious (perhaps risky) way.

To conclude:

- The Convention is going a step forward that the original ambition of some developing countries<sup>3</sup>
- The lecture offered here is a first attempt to show that the UNESCO Convention is a new tool in the body of international rules, going further than classical ways of cooperation in the field of culture. This paper needs to be improved and apologies given for the lack of evidences on the developed hypotheses.

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<sup>1</sup> It is the sense of this paper, addressed by a civil society member to improve the quality of information about this Convention.

see also my recent papers on cultural diversity ([www.eurocinema.eu](http://www.eurocinema.eu)) :

- Council of Europe Film Policy Forum "Shaping policies for the cinema of tomorrow", Krakow, 11-13 September 2008,
- 1<sup>st</sup> CARIFORUM – EU Business Forum, 24-25 November 2008, Bridgetown (Barbados), "Reaping benefits from EPA: Promotion and partnerships for the Caribbean Services Sector in the EU markets"
- Les Rencontres du Parlement européen pour la diversité des cultures: "Les politiques culturelles de l'Union européenne et des Etats-Unis", Parlement européen, Bruxelles, le 2 décembre 2008.

<sup>2</sup> A good example of how art, creativity and trade are combined in a harmonious way is the Silk Road from China to Europe, bringing masterpieces of the silk Chinese knowhow to Europe by a complex trade machinery called the "silk road".

<sup>3</sup> see the DAKAR Declaration (on the inclusion of culture in development agenda), 1<sup>st</sup> meeting of ACP Ministers of Culture -2003, that is not achieving the same dynamic.